

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 12.6.1112 and 12.6.1123 and) ADOPTION
adoption of NEW RULE I [ARM)
12.6.1136] regarding falconry)

TO: All Concerned Persons

1. On November 25, 2011 the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-373 on the proposed amendment and adoption of the above-stated rules at page 2467 of the 2011 Montana Administrative Register, Issue Number 22.

2. The commission has amended ARM 12.6.1112 and 12.6.1123, and adopted New Rule I [ARM 12.6.1136] as proposed.

3. The commission has thoroughly considered the comments and testimony received. A majority of the comments received were in favor of the rule proposal. A summary of the comments received and the commission's responses are as follows:

Comment 1: The commission received one comment stating captive raised birds are available and falconers should not be allowed to capture birds from the wild.

Response 1: Take of wild birds is allowed under both federal and state law and to disallow that privilege would require a change in the law.

Comment 2: The commission received a comment stating more biological and social research is needed before nonresidents are allowed to take Montana birds from the wild.

Response 2: See Response 1.

Comment 3: The commission received a comment stating nonresidents should be limited to one raptor rather than three because it discriminates against residents who can only take two raptors per year.

Response 3: Take by an individual nonresident falconer is limited to one raptor from Montana per year.

Comment 4: The commission received a comment stating a take of raptors by nonresidents increases the sale of raptors to Middle Eastern countries and sale of these birds for profit by the falconers.

Response 4: Falconry is closely regulated by the commission and by the United State Fish and Wildlife Service. It is illegal to sell any raptor taken from the wild and any violation will result in significant penalties from both the state and federal government.

Comment 5: The commission received a comment saying some species, such as gyrfalcons, should not be made available to nonresidents. Also, there should be variable capture permit fees for the various species of raptors.

Response 5: The department monitors the take of all species and adjustments can be made in quotas, if needed. The \$200 permit fee is not intended to put a differential value on any particular raptor species.

Comment 6: The commission received a comment stating other states and their falconers should develop habitat, conservation, and ecosystem programs rather than spend their money coming to Montana to capture Montana raptors.

Response 6: The commission does not have the authority regarding programs in other states. Take of wild birds is allowed under both federal and state law and to disallow that privilege would require a change in the law.

Comment 7: One person stated that the number of falcons allowed to be harvested will not have biological significant impacts on populations.

Response 7: The commission appreciates the interest in this rulemaking process.

/s/ Bob Ream

Bob Ream

Chairman

Fish, Wildlife and Parks Commission

/s/ Jack Lynch

Jack Lynch

Rule Reviewer

Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 27, 2012